IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

SHORT CAUSE SUIT NO.1699 OF 1989

Sarju International ..Plaintiff.

Vs.

Mahanagar Telephone Nigam Ltd. ..Defendant.

...

Mr. Rajendra Mishra for the Plaintiff.
Mrs. S.I. Shah for the Defendant.

...

CORAM: DR. D.Y. CHANDRACHUD, J.

14th December, 2006.

P.C. :

1. Mr. Rajendra Mishra undertakes to file his Vakalatnama on behalf of the Plaintiff within a period of one week from today. Learned counsel states that he has received instructions on behalf of the Plaintiff.

2. The Plaintiff has raised a dispute in respect of two bills respectively dated 23rd March, 1989 and 21st April, 1989 issued by Mahanagar Telephone Nigam Limited who are Defendants to the suit. The dispute raised in the suit clearly falls within the purview of Section 7-B of the Indian Telegraphs Act, 1885 and can

therefore, be determined by arbitration. Counsel appearing for the Defendant has drawn the attention of the Court to orders passed by the Division Bench on 20th January, 2000 in Writ Petitions 134 of 1990 and 145 of 1990 wherein having regard to the judgment of the Supreme Court in **Telecom District Manager, Goa v. V.S. Dempo**[1], a statement was made on behalf of MTNL that the dispute be referred to arbitration. A similar statement has been made on behalf of the Defendant in this case to the effect that a reference would be made to arbitration under Section 7-B of the Indian Telegraphs Act, 1885. In that view of the matter, this suit can be disposed of in terms of the statement which has been made on behalf of the Defendant.

3. By an ad interim order dated 19th June, 1989 ad interim relief was granted to the Plaintiffs conditional on their depositing an amount of Rs.14,000/-. Liberty was granted to the Defendant to withdraw the amount. Subsequently by an order dated 28th November, 1991 the earlier order was confirmed and the Plaintiffs were directed to deposit an amount of Rs.52,244/- with the Defendants on or before 30th January, 1992. In the event of default

1 AIR 1996 SC 1545.

the order was to stand vacated. The amount which has been deposited by the Plaintiffs with the Defendants shall abide by the result of the arbitral proceedings.

4. Under Section 7-B the Arbitrator has to be appointed by the Central Government. Counsel appearing on behalf of the Defendant states that in compliance with the directions issued by this Court in the aforesaid terms, the Defendant will move the Central Government for the appointment of an arbitrator under Section 7-B of the Indian Telegraphs Act, 1885 within a period of four weeks from today. The suit is accordingly disposed of.